

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.1901/91

Date of Decision: 11.12.1992

Shri Moti Chand

Applicant

versus

Delhi Administration and others

Respondents

Shri B.B. Raval

Counsel for the applicant

Shri B.R. Práshar

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter, or not? *yes*

J U D G E M E N T

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed by Shri Moti Chand, Chowkidar, at present working in Government Higher Secondary School, Chirag Enclave, New Delhi, challenging the impugned order dated 7.8.91, issued by the Principal, Government Girls Senior Secondary School, Pandara Road, asking him to vacate the quarter occupied by him within three days.

2. The applicant had been working as Chowkidar at Pandara Road, Government Girls Senior Secondary School, since his joining the service of Delhi Administration on 3.2.77 and was living in the servant's quarter within the school premises. According to him, the Principal of that school was annoyed with him for checking theft of trees from the premises by some building contractors and allowing a few cars of VVIPs to be parked within the boundary of the school during the marriage *by*

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of the son of an important national leader on the understanding that necessary permission of the Principal would be obtained by the Additional Commissioner of Police. On 23.2.90, he was transferred to a school in Chattarpur, on 21.1.91 to a school in R.K. Puram and on 11.6.91 to a school in Chirag Colony, New Delhi. He submitted a number of representations including one to the Lt.Governor on 3.8.91. Instead of redressing his grievances, the impugned order dated 7.8.91 was issued, asking him to vacate the Government quarter. He has prayed that the impugned order dated 7.8.91 be set aside and quashed and the respondents be directed to transfer him back to Pandara Road School.

3. On 21.8.91, this Tribunal passed an interim order directing the respondents not to dispossess him from the Government quarter in Pandara Road. This order has been extended till date.

4. The respondents have stated that his first and last transfers were due to administrative exigencies and had nothing to do with the events narrated by him. The second transfer was at his own request as he wanted to be posted in a school where quarters were available. Chowkidars' quarters within school premises are meant for the Chowkidars posted in a particular school, so that, he may safeguard the school's property. It is not governed by the General Pool Accommodation. If he is allowed to retain the quarter even after being posted to some other school, the very purpose of providing accommodation to a serving Chowkidar would be defeated.

5. We have gone through the records of the case and heard the learned counsel for both parties. Though transfer has been held as an incident of service (Gujarat Electricity Board and Another Versus Atma Ram (1989 (3) J.T. SC 20), it must be resorted to, in public interest and not for extraneous considerations or oblique motive or to do away with one, who

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does not suit the authorities (Kailash Trivedi Versus I.C.A.R. and Another, 1988 (7) A.T.C. 253). In this case, the applicant who had been working continuously in the Pandara Road School since 1977 was transferred thrice in 1990-91. The respondents have not thrown any light on the action that was taken against those guilty of conniving with the theft of trees from the school, which was checked by the applicant. On 16.10.89, the Additional Deputy Commissioner of Police had written to the Principal, stating as to how they were forced to park the cars of the VVIPs, within the school premises (Annexure-A2). The applicant has also complained of non-payment of dues and non-admission of his daughter in the school.

6. In the conspectus of the above facts and circumstances of the case, the application is disposed of with the following orders and directions:-

- (i) A review shall be carried out by an impartial Senior Officer, to be nominated by the Director of Education, Delhi Administration, to ascertain the circumstances, under which the applicant, who was working continuously since 1977 in the Pandara Road School had to be transferred thrice, within a short period.
- (ii) Even if it is found that the applicant has to be transferred out from Pandara Road Girls Senior Secondary School, he shall be transferred to a School, where, residential accommodation is available.
- (iii) Pending review of the matter by Director of Education or location of the school with suitable residential accommodation for him, the applicant shall be allowed to continue occupying his quarter in the Pandara Road Girls Senior Secondary School premises, subject to payment of normal licence fee, etc. in accordance with the Rules.
- (iv) The interim order passed on 21.8.91 is made absolute with the aforesaid observations.
- (v) There will be no order as to costs.